IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 6578 of 2005

Between:

C.Surender Reddy, s/o Sri Venkat Reddy,
Andhra Pradesh Dairy Development Co.op.Federation Ltd., r/o

2-3-511, Road No.3, Sri Sai Nagar, Nagole,
Hyderabad.

..... PETITIONER

AND

The Managing Director, Andhra Pradesh Dairy Development Cooperative Federation Ltd., Lalapet, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or directions essentially in the nature of writ of mandamus directing the respondent to pay the interest @ 2% per month on the terminal benefits from the date of retirement of the writ petitioner till the actual release of such pensionary benefits by holding the action of the respondent in not doing so as bad, illegal, irrational and contrary to law laid down by the Hon'ble Supreme Court of India on this issue.

Counsel for the Petitioner:MR.SATISH DESHPANDEY

Counsel for the Respondent: MR.N.RAJESWAR RAO

The Court at the admission stage made the following O R D E R:

The petitioner seeks for a direction to the respondent to pay interest on the pensionary benefits.

The petitioner on attaining superannuation retired from service in October, 2000. A regular departmental enquiry was conducted against the petitioner even after retirement. The respondent through proceedings dated 16.03.2004 directed the petitioner to show cause as to why the loss of Rs.1,84,747.00/- should not be recovered from his terminal benefits. The petitioner, therefore, approached this Court by filing W.P.No.8403 of 2004. This Court, by order dated 16.08.2004, disposed of the writ petition directing the respondent to release all pensionary benefits payable to the petitioner within two months from the date of order. As the terminal benefits were not paid to the petitioner, the petitioner filed C.C.No.64 of 2005 and belatedly, the pensionary benefits were paid to the petitioner. Now, the petitioner preferred this writ petition for grant of interest at 2% p.m. on the terminal benefits from the date of retirement till the actual release of the benefits.

Learned counsel for the petitioner relied on a decision in **Uma Agrawal v. State of A.P**., whereudner the Apex court levied interest per annum in several cases for the delay on the part of the department in payment of pension.

The above decision has no application to the present facts of the case.

Respondent issued charge sheet for the alleged misconduct of short accounting of raw material/deed etc., worth Rs.1,84,747/-. Thereafter, the enquiry officer who conducted enquiry found that the charges are proved. Therefore, a show cause notice dated 16.03.2004 was issued show cause as to why the loss of Rs.1,84,747.00/- should not be recovered from his terminal benefits. Whether it is

case of departmental delay or wantonly the terminal benefits were withheld are required to be gone into by the competent authority. Wanton delay, if any, on the part of the respondent is required to be proved before the competent authority. Therefore, in my considered opinion, petitioner is not entitled for any benefits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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(K.C.BHANU,J)

Dt:31.03.2005

usd

To

1. The Managing Director, Andhra Pradesh Dairy Development Cooperative Federation Ltd., Lalapet, Hyderabad.

2 Two CD copies.